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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JOSHUA LEE HAGEN, Defendant.	CR 16-107-BLG-SPW OFFER OF PROOF
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The defendant, Joshua Lee Hagen, is charged in count I of the indictment with conspiracy to possess with intent to distribute and to distribute methamphetamine in violation of 21 U.S.C. § 846; in count II of the indictment with possession with intent to distribute methamphetamine in violation of 21

U.S.C. § 841(a)(1), and in count VIII of the indictment possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. §924(c)(1)(A)(i).

PLEA AGREEMENT

Hagen will plead guilty to count I of the indictment. The United States presented all formal plea offers to Hagen in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to Hagen. *See Missouri v. Frye*, 566 U.S. 133, 146-147 (2012).

ELEMENTS OF THE CHARGE

In order for Hagen to be found guilty of the charge of conspiracy to possess with intent to distribute and distribute methamphetamine as charged in count I of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, there was an agreement between two or more people to distribute methamphetamine or to possess methamphetamine with intent to distribute methamphetamine; and

Second, the defendant entered the agreement knowing of its objectives and intending to accomplish at least one of those objectives.

Additionally, while not a formal element of the offense, the government would also have to prove beyond a reasonable doubt that the conspiracy involved

500 or more grams of a substance containing a detectable amount of methamphetamine.

PENALTY

Count I carries a penalty of a mandatory minimum ten years to life imprisonment, a \$10,000,000 fine, five years of supervised release, and a \$100 special assessment.

The defendant also agrees to abandon all right, title, and interest in the firearms described in count VIII of the indictment and agree to the entry of an order of forfeiture transferring the firearms to the United States.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

In the summer of 2015, members of the Eastern Montana High Intensity Drug Trafficking Area task force and FBI Big Sky Safe Streets Task Force began investigating a methamphetamine trafficking organization in the Yellowstone County area involving individuals both in and out of state. Based upon the information obtained from the investigation, agents learned that Hispanic males were transporting multi-pound quantities of methamphetamine from California to Montana for re-distribution to numerous local distributors, including the defendant.

On June 14, 2015, co-conspirator Jason Nelson was arrested on outstanding warrants. During the arrest, officers recovered methamphetamine and firearms from a vehicle that he was driving. Agents spoke with Nelson, and he admitted that he received the methamphetamine from co-conspirator Tomi Gray. He said that Gray stored her methamphetamine at the home of her ex-husband, Hagen, in Lockwood.

In January and February of 2016, Nelson was interviewed again, and he provided additional information on Gray and Hagen. According to Nelson, Gray had received methamphetamine directly from the Hispanic males, known around Billings as “the cartel” but, at the time of the statement, Gray owed the cartel money and was no longer receiving methamphetamine directly. Nelson said that Hagen was receiving methamphetamine from the cartel and members of the cartel had lived with Hagen before moving to a home in Laurel. Nelson also stated that Hagen fronted methamphetamine to Larisa or Risa (later identified as Marisa Lyman) and that Lyman was involved in a relationship with one of the cartel members. Agents were later able to confirm this information.

On March 17, 2016, law enforcement executed a search warrant at Hagen’s residence in Lockwood. There were security cameras installed around the property. Hagen attempted to flee but was apprehended at the scene. Hagen

waived his *Miranda* rights and agreed to provide a statement. Hagen told the agents that they would find approximately a half pound of methamphetamine in a toolbox in the garage, although he would not discuss where he obtained it. He also told the agents where the key was to access the locked drawer where the methamphetamine was stored. Agents located the methamphetamine in the toolbox, as well as surveillance cameras, digital scales with residue, plastic baggies, nine firearms, \$1709 in United States Currency, pay/owe sheets, miscellaneous drug paraphernalia, and several electronic devices.

On September 20, 2016, BIA drug unit agents interviewed co-conspirator Mary Rock Big Man. Big Man positively identified a photograph of Mario Martinez-Banderas as the subject she knew as “Little” and/or “Mario,” one of the cartel members. Big Man reported that Mario was driving a white suburban and had been staying in Lockwood with a “white guy” she did not know. Big Man described where the residence was located and, based upon the description, agents identified the residence as that of Hagen.

On September 21, 2016, co-conspirator Thomas Spang was arrested in Wyoming and interviewed. Spang reported that prior to traveling to Wyoming approximately two weeks before, he met a Hispanic male named Mario. Mario arrived at Spang’s residence unannounced driving a white Chevrolet Suburban.

Mario told Spang to follow him, and the two traveled to Crow Agency. Once there, Mario stopped and met an associate Spang only knew as “Kevin” (later identified as co-conspirator Kevin Torres-Ochoa). Spang, using an iPad with a Google mapping application, pointed out the residence in Crow Agency, which was the residence of Rock Big Man.

After meeting Kevin, Spang continued to follow Mario to Billings. After arriving in the Billings area, Mario took Spang to a residence east of Billings. Once there, Spang waited outside until a white male emerged with six ounces of methamphetamine. The unknown white male provided the methamphetamine to Spang, and Spang returned home to Lane Deer. Spang then used the iPad to show the agents the residence where he obtained the methamphetamine. The residence was that of Hagen. Later, Spang positively identified Hagen from a photograph.

DATED this 8th day of November, 2017.

KURT G. ALME
United States Attorney

/s/ Lori Harper Suek
LORI HARPER SUEK
Assistant U.S. Attorney